IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 192 OF 2002

IN

COMPANY PETITION NO. 446 OF 2001

MIKIKUKI INTERNATIONAL LTD. ... APPELLANTS
(org. Petitioners)

Versus

SUN EARTH CERAMICS LTD. ... RESPONDENTS
(Og. Respondents)

Ms. J.M.Sidhwa i/b. Pandya Gandhi & Co. for the appellants.

None for Respondents.

CORAM: D.K.DESHMUKH &
J.H.BHATIA,JJ.

DATE: 23rd October,2007.

P.C.

1. By this Appeal, the appellant challenges the order passed by a learned Single Judge of this Court dated 19th September, 2001 in Company Petition No.446 of 2001 by which the Company Petition filed by the petitioners seeking an order of winding up of the

Respondent-company has been rejected. The learned Single Judge has observed in the order that there were long standing business relations between the parties and that there was a dispute raised by the Respondent-company about the quality of the goods supplied by the petitioners. An order refusing to admit a company petition is a discretionary order. The learned Single Judge, after considering the material on record, found that it will not be in the interest of justice to admit the Company Petition. The petitioners have now admittedly filed a summary suit for recovery of the amount which is pending. We have been informed that the Respondent-Company has also been declared as a relief undertaking and the proceedings before the BIFR are pending.

2. Taking overall view of the matter, therefore, in our opinion, it will not be appropriate to interfere with the order of the learned Single Judge.

The Appeal is disposed of.

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(D.K.DESHMUKH,J.)

(J.H.BHATIA,J.)